

CALIFORNIA DEPARTMENT OF INSURANCE
LEGAL DIVISION

Teresa R. Campbell, Bar No. 162105
45 Fremont Street, 21st Floor
San Francisco, CA 94105
Telephone: 415-538-4126
Facsimile: 415-904-5490

Attorneys for John Garamendi,
Insurance Commissioner

**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA**

In the Matter of

**GEICO GENERAL
INSURANCE COMPANY,
GOVERNMENT EMPLOYEES
INSURANCE COMPANY,
GEICO CASUALTY
COMPANY, AND GEICO
INDEMNITY COMPANY**

Respondents.

File No. UPA 05048291
OAH No. N2005 110707

**SECOND AMENDED ORDER TO SHOW
CAUSE AND STATEMENT OF
CHARGES; NOTICE OF MONETARY
PENALTY**

(Insurance Code §§704(b), 790.05 and
790.035)

WHEREAS, the Insurance Commissioner of the State of California (hereafter, “the Commissioner”) has reason to believe that GEICO GENERAL INSURANCE COMPANY, GOVERNMENT EMPLOYEES INSURANCE COMPANY (“GEICO”), GEICO CASUALTY COMPANY, AND GEICO INDEMNITY COMPANY (hereinafter “Respondents”) have engaged in or is engaging in this State in the unfair methods of competition or unfair or deceptive acts or practices set forth in the STATEMENT OF CHARGES contained herein, each falling within Section 790 et seq. of the California Insurance Code (“CIC”);

WHEREAS, the Insurance Commissioner has reason to believe that a proceeding with respect to the alleged acts of Respondent would be in the public interest;

NOW, THEREFORE, and pursuant to the provisions of CIC § 790.05, Respondent is ordered to appear before the Commissioner on **June 14-15, 2006 at Office of Administrative**

1 **Hearings, 1515 Clay Street, Suite 206, Oakland, California, at 9:00 A.M.**, and show cause, if
2 any cause there be, why the Commissioner should not issue an Order to said Respondent
3 requiring Respondent to Cease and Desist from engaging in the methods, acts, and practices set
4 forth in the STATEMENT OF CHARGES contained herein in Paragraphs 2 through 24 and
5 imposing the penalties set forth in CIC Sections 790.035 and 704(b) as requested in the Petition
6 for Discipline and Order, herein.

7
8 **JURISDICTION AND PARTIES**

9 1. Respondents are, and at all relevant times have been, the holders of a
10 Certificate of Authority issued by the Commissioner and is authorized to transact the business of
11 insurance in California.

12 **STATEMENT OF CHARGES**

13 2. On or about October 28, 2004, Michele Secchitano made a third-party
14 claim with Respondent GEICO CASUALTY COMPANY for damage to her vehicle. The
15 claimant took the vehicle to the shop of her choice. That shop wrote an estimate that was greater
16 than Respondent's. The shop's labor rate is \$83 per hour. Respondent offered to pay only \$75
17 per hour. Respondent stated that their refusal to pay the shop's rate was based on the belief that
18 the shop's rates exceed the generally accepted labor rates for the area. Respondent, however, had
19 not conducted a labor rate survey to determine the prevailing labor rate in the area nor provided
20 any other evidence or support that its adjustment of the repair facilities estimate was reasonable.
21 Further, Respondent's repair estimate limits the amount paid for paint and materials to \$350.
22 This amount is arbitrary and unrelated to the actual cost of paint and materials or the accepted
23 industry methodology used in determining the cost of paint and materials. Respondent has
24 provided no evidence that the limit imposed is reasonable. Respondent's acts are in violation of
25 CIC Section 790.03(h)(5) and Title 10, California Code of Regulation ("CCR"), Sections
26 2695.7(g) and 2695.8(f). Additionally, on October 22, 2004, Respondent advised the claimant
27 that it would pay to have the vehicle moved to another repair facility if the claimant desired. The
28

1 claimant, however, had not previously requested a referral to another repair facility.

2 Respondent's acts are in violation of CIC section 758.5(c). [Claim No. 019405233 0101 012]

3 3. On or about March 21, 2005, Rubin Diaz made a first-party claim with
4 Respondent GEICO CASUALTY COMPANY for damage to his vehicle. The insured took the
5 vehicle to the shop of his choice. That shop wrote an estimate that was greater than
6 Respondent's. The shop's labor rate is \$83 per hour. Respondent offered to pay only \$75 per
7 hour. Respondent stated that their refusal to pay the shop's rate was based on the belief that,
8 based on its experience with automobile claims and from its claims files in which agreed prices
9 are negotiated, the shop's rates exceed the generally accepted labor rates for the area.
10 Respondent's gathering of information to determine and set a specific prevailing auto body repair
11 labor rate constitutes a survey pursuant to CCR section 2698.91. Respondent, however,
12 Respondent did not submit the survey to the Department, nor did it provide any evidence or
13 support that its adjustment of the repair facilities estimate was reasonable. Respondent's acts are
14 in violation of CIC Sections 758(c), 790.03(h)(5) and CCR, Sections 2695.7(g), 2695.8(f) and
15 2698.91. Further, Respondent's repair estimate limits the amount paid for paint and materials to
16 \$350. This amount is arbitrary and unrelated to the actual cost of paint and materials or the
17 accepted industry methodology used in determining the cost of paint and materials. Respondent
18 has provided no evidence that the limit imposed is reasonable. Respondent's acts are in violation
19 of CIC Section 790.03(h)(5) and CCR, Sections 2695.7(g) and 2695.8(f). [Claim No. 022505702
20 0101 019]

21 4. On or about May 26, 2005, Paul Haenel made a first-party claim with
22 Respondent GEICO CASUALTY COMPANY for damage to his vehicle. The insured took the
23 vehicle to the shop of his choice. That shop wrote an estimate that was greater than
24 Respondent's. The shop's labor rate is \$83 per hour. Respondent offered to pay only \$75 per
25 hour. Respondent stated that their refusal to pay the shop's rate was based on the belief that,
26 based on its experience with automobile claims and from its claims files in which agreed prices
27 are negotiated, the shop's rates exceed the generally accepted labor rates for the area.
28 Respondent's gathering of information to determine and set a specific prevailing auto body repair

1 labor rate constitutes a survey pursuant to CCR section 2698.91. Respondent, however,
2 Respondent did not submit the survey to the Department, nor did it provide any evidence or
3 support that its adjustment of the repair facilities estimate was reasonable. Respondent's acts are
4 in violation of CIC Sections 758(c), 790.03(h)(5) and CCR, Sections 2695.7(g), 2695.8(f) and
5 2698.91. [Claim No. 027363568 0101 014]

6 5. On or about October 6, 2004, Ezra Mann made a first-party claim with
7 Respondent GEICO INDEMNITY COMPANY for damage to his vehicle. The insured took the
8 vehicle to the shop of his choice. That shop wrote an estimate that was greater than
9 Respondent's. The shop's labor rate is \$83 per hour. Respondent offered to pay only \$75 per
10 hour. Respondent stated that their refusal to pay the shop's rate was based on the belief that the
11 shop's rates exceed the generally accepted labor rates for the area. Respondent, however, had not
12 conducted a labor rate survey to determine the prevailing labor rate in the area nor provided any
13 other evidence or support that its adjustment of the repair facilities estimate was reasonable.
14 Further, Respondent's repair estimate limits the amount paid for paint and materials to \$350.
15 This amount is arbitrary and unrelated to the actual cost of paint and materials or the accepted
16 industry methodology used in determining the cost of paint and materials. Respondent has
17 provided no evidence that the limit imposed is reasonable. Respondent's acts are in violation of
18 CIC Section 790.03(h)(5) and CCR, Sections 2695.7(g) and 2695.8(f). Additionally, Respondent
19 contacted the claimant by telephone and advised him that there was a difference between its
20 estimate and the repair facility's estimate and that he may be responsible to pay the difference out
21 of his pocket. The Respondent, however, failed to advise the claimant of its disputed liability and
22 denial of part of her claim in writing. Respondent's acts are in violation of CCR Sections
23 2695.7(b)(1). [Claim No. 021975678 0101 014]

24 6. On or about December 3, 2004, Scott Sheldon made a first-party claim
25 with Respondent GEICO INDEMNITY COMPANY for damage to his vehicle. The insured took
26 the vehicle to the shop of his choice. That shop wrote an estimate that was greater than
27 Respondent's. The shop's labor rate is \$86 per hour. Respondent offered to pay only \$75 per
28 hour. Respondent stated that their refusal to pay the shop's rate was based on the belief that the

1 shop's rates exceed the generally accepted labor rates for the area. Respondent, however, had not
2 conducted a labor rate survey to determine the prevailing labor rate in the area nor provided any
3 other evidence or support that its adjustment of the repair facilities estimate was reasonable.
4 Respondent's acts are in violation of CIC Section 790.03(h)(5) and CCR, Sections 2695.7(g) and
5 2695.8(f). Additionally, Respondent contacted the claimant by telephone and advised him that
6 there was a difference between its estimate and the repair facility's estimate and that he may be
7 responsible to pay the difference out of his pocket. The Respondent, however, failed to advise the
8 claimant of its disputed liability and denial of part of her claim in writing. Respondent's acts are
9 in violation of CCR Sections 2695.7(b)(1). [Claim No. 015145988 0101 030]

10 7. On or about December 19, 2004, Jewell McDaniel made a first-party claim
11 with Respondent GEICO INDEMNITY COMPANY for damage to his vehicle. The insured took
12 the vehicle to the shop of his choice. That shop wrote an estimate that was greater than
13 Respondent's. The shop's labor rate is \$86 per hour. Respondent offered to pay only \$75 per
14 hour. Respondent stated that their refusal to pay the shop's rate was based on the belief that the
15 shop's rates exceed the generally accepted labor rates for the area. Respondent, however, had not
16 conducted a labor rate survey to determine the prevailing labor rate in the area nor provided any
17 other evidence or support that its adjustment of the repair facilities estimate was reasonable.
18 Respondent's acts are in violation of CIC Section 790.03(h)(5) and CCR, Sections 2695.7(g) and
19 2695.8(f). Additionally, Respondent contacted the claimant by telephone and advised him that
20 there was a difference between its estimate and the repair facility's estimate and that he may be
21 responsible to pay the difference out of his pocket. The Respondent, however, failed to advise the
22 claimant of its disputed liability and denial of part of her claim in writing. Respondent's acts are
23 in violation of CCR Sections 2695.7(b)(1). [Claim No. 011295865 0101 128]

24 8. On or about April 24, 2005, Steven Farnell made a first-party claim with
25 Respondent GEICO INDEMNITY COMPANY for damage to his vehicle. The insured took the
26 vehicle to the shop of his choice. That shop wrote an estimate that was greater than
27 Respondent's. The shop's labor rate is \$86 per hour. Respondent offered to pay only \$75 per
28 hour. Respondent stated that their refusal to pay the shop's rate was based on the belief that,

1 based on its experience with automobile claims and from its claims files in which agreed prices
2 are negotiated, the shop's rates exceed the generally accepted labor rates for the area.
3 Respondent's gathering of information to determine and set a specific prevailing auto body repair
4 labor rate constitutes a survey pursuant to CCR section 2698.91. Respondent, however,
5 Respondent did not submit the survey to the Department, nor did it provide any evidence or
6 support that its adjustment of the repair facilities estimate was reasonable. Respondent's acts are
7 in violation of CIC Sections 758(c), 790.03(h)(5) and CCR, Sections 2695.7(g), 2695.8(f) and
8 2698.91. Further, Respondent's repair estimate limits the amount paid for paint and materials to
9 \$350. This amount is arbitrary and unrelated to the actual cost of paint and materials or the
10 accepted industry methodology used in determining the cost of paint and materials. Respondent
11 has provided no evidence that the limit imposed is reasonable. Respondent's acts are in violation
12 of CIC Section 790.03(h)(5) and CCR, Sections 2695.7(g) and 2695.8(f). Additionally,
13 Respondent contacted the insured by telephone and advised him that there was a difference
14 between its estimate and the repair facility's estimate and that he may be responsible to pay the
15 difference out of his pocket. The Respondent, however, failed to advise the claimant of its
16 disputed liability and denial of part of her claim in writing. Respondent's acts are in violation of
17 CCR Sections 2695.7(b)(1). [Claim No. 023589157 0101 013]

18 9. On or about June 23, 2005, Vicki Johnson made a first-party claim with
19 Respondent GEICO INDEMNITY COMPANY for damage to her vehicle. The insured took the
20 vehicle to the shop of her choice. That shop wrote an estimate that was greater than
21 Respondent's. The shop's labor rate is \$86 per hour. Respondent offered to pay only \$75 per
22 hour. Respondent stated that their refusal to pay the shop's rate was based on the belief that,
23 based on its experience with automobile claims and from its claims files in which agreed prices
24 are negotiated, the shop's rates exceed the generally accepted labor rates for the area.
25 Respondent's gathering of information to determine and set a specific prevailing auto body repair
26 labor rate constitutes a survey pursuant to CCR section 2698.91. Respondent, however, did not
27 submit the survey to the Department, nor did it provide any evidence or support that its
28 adjustment of the repair facilities estimate was reasonable. Respondent's acts are in violation of

1 CIC Sections 758(c), 790.03(h)(5) and CCR, Sections 2695.7(g), 2695.8(f) and 2698.91. Further,
2 Respondent's repair estimate limits the amount paid for paint and materials to \$350. This amount
3 is arbitrary and unrelated to the actual cost of paint and materials or the accepted industry
4 methodology used in determining the cost of paint and materials. Respondent has provided no
5 evidence that the limit imposed is reasonable. Respondent's acts are in violation of CIC Section
6 790.03(h)(5) and CCR, Sections 2695.7(g) and 2695.8(f). Additionally, Respondent contacted
7 the insured by telephone and advised her that there was a difference between its estimate and the
8 repair facility's estimate and that he may be responsible to pay the difference out of his pocket.
9 The Respondent, however, failed to advise the claimant of its disputed liability and denial of part
10 of her claim in writing. Respondent's acts are in violation of CCR Sections 2695.7(b)(1). [Claim
11 No. 027835511 0101 014]

12 10. On or about April 8, 2005, Brian McBratney made a first-party claim with
13 Respondent GEICO INDEMNITY COMPANY for damage to his vehicle. The insured took the
14 vehicle to the shop of his choice. That shop wrote an estimate that was greater than
15 Respondent's. The shop's labor rate is \$86 per hour. Respondent offered to pay only \$75 per
16 hour. Respondent stated that their refusal to pay the shop's rate was based on the belief that,
17 based on its experience with automobile claims and from its claims files in which agreed prices
18 are negotiated, the shop's rates exceed the generally accepted labor rates for the area.
19 Respondent's gathering of information to determine and set a specific prevailing auto body repair
20 labor rate constitutes a survey pursuant to CCR section 2698.91. Respondent, however, did not
21 submit the survey to the Department, nor did it provide any evidence or support that its
22 adjustment of the repair facilities estimate was reasonable. Respondent's acts are in violation of
23 CIC Sections 758(c), 790.03(h)(5) and CCR, Sections 2695.7(g), 2695.8(f) and 2698.91. Further,
24 Respondent's repair estimate limits the amount paid for paint and materials to \$350. This amount
25 is arbitrary and unrelated to the actual cost of paint and materials or the accepted industry
26 methodology used in determining the cost of paint and materials. Respondent has provided no
27 evidence that the limit imposed is reasonable. Respondent's acts are in violation of CIC Section
28 790.03(h)(5) and CCR, Sections 2695.7(g) and 2695.8(f). Additionally, Respondent contacted

1 the insured by telephone and advised him that there was a difference between its estimate and the
2 repair facility's estimate and that he may be responsible to pay the difference out of his pocket.
3 The Respondent, however, failed to advise the claimant of its disputed liability and denial of part
4 of her claim in writing. Respondent's acts are in violation of CCR Sections 2695.7(b)(1). [Claim
5 No. 022081530 0101 024]

6 11. On or about September 17, 2004, Mark Mezey made a first-party claim
7 with Respondent GEICO for damage to his vehicle. The insured took the vehicle to the shop of
8 his choice. That shop wrote an estimate that was greater than Respondent's. The shop's labor
9 rate is \$83 per hour. Respondent offered to pay only \$75 per hour. Respondent stated that their
10 refusal to pay the shop's rate was based on the belief that the shop's rates exceed the generally
11 accepted labor rates for the area. Respondent, however, did not provide any evidence or support
12 that its adjustment of the repair facilities estimate was reasonable. Respondent's acts are in
13 violation of CIC Sections 790.03(h)(5) and CCR, Sections 2695.7(g), 2695.8(f) and 2698.91.
14 Additionally, Respondent contacted the insured by telephone and advised him that there was a
15 difference between its estimate and the repair facility's estimate and that he may be responsible to
16 pay the difference out of his pocket. The Respondent, however, failed to advise the claimant of
17 its disputed liability and denial of part of her claim in writing. Respondent's acts are in violation
18 of CCR Sections 2695.7(b)(1). Additionally, on September 20, 2004, Respondent advised the
19 claimant that he could have his vehicle repaired at the shop of choice and most shops in the area,
20 but not his shop of choice, charge \$75, the insurer's determined comparable rate. The claimant,
21 however, had not previously requested a referral to another repair facility. Respondent's acts are
22 in violation of CIC section 758.5 [Claim No. 018656834 0101 031]

23 12. On or about February 12, 2005, Margarita Carrasco made a first-party
24 claim with Respondent GEICO for damage to her vehicle. The insured took the vehicle to the
25 shop of her choice. That shop wrote an estimate that was greater than Respondent's. The shop's
26 labor rate is \$86 per hour. Respondent offered to pay only \$75 per hour. Respondent stated that
27 their refusal to pay the shop's rate was based on the belief that the shop's rates exceed the
28 generally accepted labor rates for the area. Respondent, however, did not provide any evidence

1 or support that its adjustment of the repair facilities estimate was reasonable. Respondent's acts
2 are in violation of CIC Sections 790.03(h)(5) and CCR, Sections 2695.7(g), 2695.8(f) and
3 2698.91. Additionally, Respondent contacted the insured by telephone and advised her that there
4 was a difference between its estimate and the repair facility's estimate and that she may be
5 responsible to pay the difference out of his pocket. The Respondent, however, failed to advise the
6 claimant of its disputed liability and denial of part of her claim in writing. Respondent's acts are
7 in violation of CCR Sections 2695.7(b)(1). Additionally, on February 18, 2005, Respondent
8 advised the claimant that she could have her vehicle repaired at the shop of choice and most shops
9 in the area, but not her shop of choice, charge \$75, the insurer's determined comparable rate. The
10 claimant, however, had not previously requested a referral to another repair facility.

11 Respondent's acts are in violation of CIC section 758.5. [Claim No. 015164424 0101 065]

12 13. On or about August 22, 2004, Kevin Boone-Nelson made a first party
13 claim with Respondent GEICO for damage to his vehicle. In connection with this claim,
14 Respondent's repair estimate limited the amount paid for paint and materials to \$350. This
15 amount is arbitrary and unrelated to the actual cost of paint and materials or the accepted industry
16 methodology used in determining the cost of paint and materials. Respondent has provided no
17 evidence that the limit imposed is reasonable. Respondent's acts are in violation of CIC Section
18 790.03(h)(5) and CCR, Sections 2695.7(g) and 2695.8(f). [Claim No. 021463217 0101 010]

19 14. On or about June 30, 2004, Frank Najera made a first party claim with
20 Respondent GEICO for damage to his vehicle. In connection with this claim, Respondent's
21 repair estimate limits the amount paid for paint and materials to \$350. This amount is arbitrary
22 and unrelated to the actual cost of paint and materials or the accepted industry methodology used
23 in determining the cost of paint and materials. Respondent has provided no evidence that the
24 limit imposed is reasonable. Respondent's acts are in violation of CIC Section 790.03(h)(5) and
25 CCR, Sections 2695.7(g) and 2695.8(f). [Claim No. 01443183 2010 051]

26 15. On or about January 30, 2004, Ingeborg DeLaCarta made a first-party
27 claim with Respondent GEICO GENERAL INSURANCE COMPANY for damage to her
28 vehicle. The insured took the vehicle to the shop of his choice. In connection with this claim,

1 Respondent gathered information that it used to determine and set a specific prevailing auto body
2 repair labor rate. Such a gathering constitutes a survey pursuant to CCR section 2698.91.

3 Respondent, however, Respondent did not submit the survey to the Department. Respondent's
4 acts are in violation of CIC Sections 758(c). [Claim No. 009368260 0101 011]

5 16. On or about June 11, 2004, Julie Rivera made a first-party claim with
6 Respondent GEICO GENERAL INSURANCE COMPANY for damage to her vehicle. The
7 insured took the vehicle to the shop of her choice. Respondent advised her that her choice shop
8 charged \$83 per hour and that the comparable rate in the area was \$74-\$78 per hour and that she
9 may be responsible for the difference. Respondent also advised insured that it would pay to have
10 the vehicle towed to another shop should she choose to move the vehicle. The insured, however,
11 had not previously requested a referral to another repair facility. Respondent's acts are in
12 violation of CIC section 758.5. [Claim No. 013374567 0101 187]

13 17. On or about June 26, 2004, Angelina Petros made a first-party claim with
14 Respondent GEICO GENERAL INSURANCE COMPANY for damage to her vehicle. The
15 insured took the vehicle to the shop of her choice. Respondent advised her that her choice shop
16 charged \$84 per hour and that the max comparable rate in the area was \$78 per hour and that she
17 may be responsible for the difference. Respondent also advised insured that she could have her
18 vehicle repaired at almost any other shop or dealership for \$78 per hour. The insured, however,
19 had not previously requested a referral to another repair facility. Respondent's acts are in
20 violation of CIC section 758.5. [Claim No. 022582284 0101 014]

21 18. On or about August 22, 2004, Steve Matich made a first-party claim with
22 Respondent GEICO GENERAL INSURANCE COMPANY for damage to his vehicle. The
23 insured took the vehicle to the shop of his choice. The shop's labor rate is \$83 per hour.
24 Respondent offered to pay only \$78 per hour. Respondent stated that their refusal to pay the
25 shop's rate was based on its belief that, based on its experience with automobile claims and from
26 its claims files in which agreed prices are negotiated, the shop's rates exceed the generally
27 accepted labor rates for the area. Respondent's gathering of information to determine and set a
28 specific prevailing auto body repair labor rate constitutes a survey pursuant to CCR section

1 2698.91. Respondent, however, did not submit the survey to the Department, nor did it provide
2 any evidence or support that its adjustment of the repair facilities estimate was reasonable.
3 Respondent's acts are in violation of CIC Sections 758(c), 790.03(h)(5) and CCR, Sections
4 2695.7(g), 2695.8(f) and 2698.91. Additionally, Respondent contacted the insured by telephone
5 and advised him that there was a difference between its estimate and the repair facility's estimate
6 and that he may be responsible to pay the difference out of his pocket. The Respondent, however,
7 failed to advise the claimant of its disputed liability and denial of part of her claim in writing.
8 Respondent's acts are in violation of CCR Sections 2695.7(b)(1). [Claim No. 01101984 1010
9 157]

10 19. On or about December 1, 2004, Jenelle Davies made a first-party claim
11 with Respondent GEICO GENERAL INSURANCE COMPANY for damage to her vehicle. The
12 shop's labor rate is \$86 per hour. Respondent offered to pay only \$75 per hour. Respondent
13 stated that their refusal to pay the shop's rate was based on the belief that the shop's rates exceed
14 the generally accepted labor rates for the area. Respondent, however, did not provide any
15 evidence or support that its adjustment of the repair facilities estimate was reasonable.
16 Respondent's acts are in violation of CIC Sections 790.03(h)(5) and CCR, Sections 2695.7(g),
17 2695.8(f) and 2698.91. Additionally, Respondent contacted the insured by telephone and
18 advised her that there was a difference between its estimate and the repair facility's estimate and
19 that she may be responsible to pay the difference out of his pocket. The Respondent, however,
20 failed to advise the claimant of its disputed liability and denial of part of her claim in writing.
21 Respondent's acts are in violation of CCR Sections 2695.7(b)(1). [Claim No. 016610869 0101
22 036]

23 20. On or about December 7, 2004, Shanna Cissna made a third-party claim
24 with Respondent GEICO GENERAL INSURANCE COMPANY for damage to her vehicle. The
25 claimant took the vehicle to the shop of her choice. The shop's labor rate is \$86 per hour.
26 Respondent offered to pay only \$75 per hour. Respondent stated that their refusal to pay the
27 shop's rate was based on the belief that the shop's rates exceed the generally accepted labor rates
28 for the area, stating that its determination of the generally accepted labor rates is based on the

1 many negotiated agreed rates that take place between local adjusters and body shops in the area.
2 Respondent's gathering of information to determine and set a specific prevailing auto body repair
3 labor rate constitutes a survey pursuant to CCR section 2698.91. Respondent, however, did not
4 submit the survey to the Department, nor did it provide any evidence or support that its
5 adjustment of the repair facilities estimate was reasonable. Respondent's acts are in violation of
6 CIC Sections 758(c), 790.03(h)(5) and CCR, Sections 2695.7(g), 2695.8(f) and 2698.91.
7 Additionally, Respondent contacted the insured by telephone and advised her that there was a
8 difference between its estimate and the repair facility's estimate and that she may be responsible
9 to pay the difference out of his pocket. The Respondent, however, failed to advise the claimant of
10 its disputed liability and denial of part of her claim in writing. Respondent's acts are in violation
11 of CCR Sections 2695.7(b)(1). [Claim No. 024705155 0101 022]

12 21. On or about February 2, 2005, David Bui made a first-party claim with
13 Respondent GEICO GENERAL INSURANCE COMPANY for damage to his vehicle. He took
14 his vehicle to the shop of his choice. The shop's labor rate is \$88 per hour. Respondent offered
15 to pay only \$78 per hour. Respondent stated that their refusal to pay the shop's rate was based on
16 the belief that the shop's rates exceed the generally accepted labor rates for the area, stating that
17 its determination of the generally accepted labor rates is based on the many negotiated agreed
18 rates that take place between local adjusters and body shops in the area. Respondent's gathering
19 of information to determine and set a specific prevailing auto body repair labor rate constitutes a
20 survey pursuant to CCR section 2698.91. Respondent, however, did not submit the survey to the
21 Department, nor did it provide any evidence or support that its adjustment of the repair facilities
22 estimate was reasonable. Respondent's acts are in violation of CIC Sections 758(c), 790.03(h)(5)
23 and CCR, Sections 2695.7(g), 2695.8(f) and 2698.91. Additionally, Respondent contacted the
24 insured by telephone and advised him that there was a difference between its estimate and the
25 repair facility's estimate and that he may be responsible to pay the difference out of his pocket.
26 The Respondent, however, failed to advise the claimant of its disputed liability and denial of part
27 of her claim in writing. Respondent's acts are in violation of CCR Sections 2695.7(b)(1).
28 [Claim No. 020832743 0101 011]

1 22. On or about March 29, 2005, Denise Joaquin made a first-party claim with
2 Respondent GEICO GENERAL INSURANCE COMPANY for damage to her vehicle. She took
3 his vehicle to the shop of her choice. The shop's labor rate is \$86 per hour. Respondent offered
4 to pay only \$75 per hour. Respondent stated that their refusal to pay the shop's rate was based on
5 its belief that, based on its experience with automobile claims and from its claims files in which
6 agreed prices are negotiated, the shop's rates exceed the generally accepted labor rates for the
7 area. Respondent's gathering of information to determine and set a specific prevailing auto body
8 repair labor rate constitutes a survey pursuant to CCR section 2698.91. Respondent, however, did
9 not submit the survey to the Department, nor did it provide any evidence or support that its
10 adjustment of the repair facilities estimate was reasonable. Respondent's acts are in violation of
11 CIC Sections 758(c), 790.03(h)(5) and CCR, Sections 2695.7(g), 2695.8(f) and 2698.91.
12 Additionally, Respondent contacted the insured by telephone and advised her that there was a
13 difference between its estimate and the repair facility's estimate and that she may be responsible
14 to pay the difference out of her pocket. The Respondent, however, failed to advise the claimant
15 of its disputed liability and denial of part of her claim in writing. Respondent's acts are in
16 violation of CCR Sections 2695.7(b)(1). [Claim No. 010356930 0101 185]

17 23. On or about April 5, 2005, Asa Roby made a third-party claim with
18 Respondent GEICO GENERAL INSURANCE COMPANY for damage to his vehicle. He took
19 his vehicle to the shop of his choice. The shop's labor rate is \$86 per hour. Respondent offered
20 to pay only \$75 per hour. Respondent stated that their refusal to pay the shop's rate was based on
21 its belief that, based on its experience with automobile claims and from its claims files in which
22 agreed prices are negotiated, the shop's rates exceed the generally accepted labor rates for the
23 area. Respondent's gathering of information to determine and set a specific prevailing auto body
24 repair labor rate constitutes a survey pursuant to CCR section 2698.91. Respondent, however,
25 Respondent did not submit the survey to the Department, nor did it provide any evidence or
26 support that its adjustment of the repair facilities estimate was reasonable. Respondent's acts are
27 in violation of CIC Sections 758(c), 790.03(h)(5) and CCR, Sections 2695.7(g), 2695.8(f) and
28 2698.91. [Claim No. 01828086 5001 013].

1 24. On or about July 23, 2004, Joseph Mullins made a first party claim with
2 Respondent GEICO General Insurance Company for damage to his vehicle. In connection with
3 this claim, Respondent's repair estimate limited the amount paid for paint and materials to \$350.
4 This amount is arbitrary and unrelated to the actual cost of paint and materials or the accepted
5 industry methodology used in determining the cost of paint and materials. Respondent has
6 provided no evidence that the limit imposed is reasonable. Respondent's acts are in violation of
7 CIC Section 790.03(h)(5) and CCR, Sections 2695.7(g) and 2695.8(f). [Claim No. 010108095
8 0101 113]

9
10 **STATEMENT OF MONETARY PENALTY ORDER, AND STATEMENT OF**
11 **POTENTIAL LIABILITY, PURSUANT TO CIC § 790 et. Seq**

12
13 25. The facts alleged above in Paragraphs 2 through 24 show that Respondent
14 did not attempt in good faith to effectuate prompt, fair and equitable settlement of claims in which
15 liability had become reasonable clear, in violation of CIC Section 790.03(h)(5).

16 26. The facts alleged above in Paragraphs 2 through 24 constitute grounds,
17 under CIC Section 790.05, for the Insurance Commissioner to order Respondent to cease and
18 desist from engaging in such unfair acts or practices and to pay a civil penalty not to exceed five
19 thousand dollars (\$5,000) for each act, or if the act or practice was willful, a civil penalty not to
20 exceed ten thousand dollars (\$10,000) for each act as set forth under CIC Section 790.035.

21 27. The facts alleged above in Paragraphs 2 through 24 show that Respondent
22 have failed to carry out its contracts in good faith, constituting grounds for the Insurance
23 Commissioner to suspend the Certificate of Authority of Respondent for a period not to exceed
24 one year pursuant to CIC Section 704(b), or to impose a fine in an amount not exceeding
25 \$55,000 in lieu of suspension pursuant to the authority of CIC Section 704.7.

26 ///

27 ///

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

1. An Order to Cease and Desist from engaging in such unfair acts or practices in violation of CIC Section 790.03 as set forth above;
2. For acts in violation of CIC Section 790.03 and the regulations promulgated pursuant to CIC Section 790.10, as set forth above, a civil penalty not to exceed five thousand dollars (\$5,000) for each act or, if the act or practice was willful, a civil penalty not to exceed ten thousand dollars (\$10,000) for each act.
3. For acts in violation of CIC Section 704(b), suspension of Respondent's certificate of authority for not exceeding one year or a fine in the amount fifty-five thousand dollars (\$55,000) in lieu of suspension.

JOHN GARAMENDI
Insurance Commissioner

15
16
17
18
19
20
21
22
23
24
25
26
27
28